



H.C.P.(MD)No.1325 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.1325 of 2024

J.Petchiammal

... Petitioner / Mother of the Detenu

Vs.

- 1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli.
- 4.The Superintendent,
District Jail,
Perurani,
Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus, calling for the entire



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records connected with the detention order passed in H.S.(M) Confdl No. 62/2024 dated 26.05.2024 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son ie., Raja @ Shanmugaraja, aged about 22 years, S/o.Jothiraja, now detained at the District Jail, Perurani, Thoothukudi District before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.T.Senthilkumar,
Addl. Public Prosecutor.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

The petitioner's son was detained as “Goonda” vide order 26.05.2024 by the second respondent. The detenu was arrested on 25.04.2024. The detention order was passed on 26.05.2024. There is a gap of 31 days between the date of arrest and the date of detention.

2.The petitioner's counsel relies on the decision of the Hon'ble Supreme Court reported in *(2022 Livelaw (SC) 813) (Sushanta Kumar Banik Vs. State of Tripura)*. The Hon'ble Supreme Court in the said decision held as follows:-



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“20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.”

3. We are satisfied that the aforesaid decision clearly applies to the case on hand. The detention order is quashed on this ground. He shall be set at liberty forthwith unless his detention is otherwise warranted by law.

4. This habeas corpus petition is allowed accordingly.

(G.R.S. J.) & (R.P. J.)
09.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 10.12.2024.

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To:-
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- 1.The Additional Chief Secretary to Government,
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- 3.The Superintendent of Prison,
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Tirunelveli.
- 4.The Superintendent,
District Jail,
Perurani,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
R.POORNIMA, J.

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